

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF NEVADA

3 DEANTHONY BROWN,

4 Plaintiff,

5 v.

6 THE STATE OF NEVADA, et al.,

7 Defendants.

Case No. 2:19-cv-01404-APG-EJY

ORDER

8 This action began with a *pro se* civil rights complaint filed under 42 U.S.C. § 1983 by a
9 state prisoner. On August 19, 2019, Magistrate Judge Youchah issued ordered plaintiff
10 Deanthony Brown to file a fully complete application to proceed *in forma pauperis* or pay the
11 full filing fee of \$400.00 within 30 days from the date of that order. ECF No. 3 at 2. The 30-day
12 period has now expired, and Brown has not filed an application to proceed *in forma pauperis*,
13 paid the full filing fee, or otherwise responded to the order.

14 District courts have the inherent power to control their dockets and “[i]n the exercise of
15 that power, they may impose sanctions including, where appropriate . . . dismissal” of a case.
16 *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may
17 dismiss an action, with prejudice, based on a party’s failure to prosecute an action, failure to
18 obey a court order, or failure to comply with local rules. *See Ghazali v. Moran*, 46 F.3d 52, 53-
19 54 (9th Cir. 1995) (affirming dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*,
20 963 F.2d 1258, 1260-61 (9th Cir. 1992) (affirming dismissal for failure to comply with an order
21 requiring amendment of complaint); *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir. 1988)
22 (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to keep court
23 apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987) (affirming

1 dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d 1421, 1424
2 (9th Cir. 1986) (affirming dismissal for lack of prosecution and failure to comply with local
3 rules).

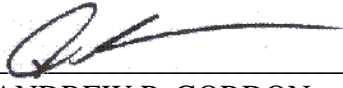
4 In determining whether to dismiss an action for lack of prosecution, failure to obey a
5 court order, or failure to comply with local rules, the court must consider several factors: (1) the
6 public's interest in expeditious resolution of litigation; (2) the court's need to manage its docket;
7 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on
8 their merits; and (5) the availability of less drastic alternatives. *See Thompson*, 782 F.2d at 831;
9 *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61;
10 *Ghazali*, 46 F.3d at 53.

11 Here, the first two factors (the public's interest in expeditiously resolving this litigation
12 and the Court's interest in managing the docket) weigh in favor of dismissal. The third factor
13 (risk of prejudice to defendants) also weighs in favor of dismissal because a presumption of
14 injury arises from the occurrence of unreasonable delay in filing a pleading ordered by the court
15 or prosecuting an action. *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The
16 fourth factor (public policy favoring disposition of cases on their merits) is greatly outweighed
17 by the factors in favor of dismissal discussed herein. Finally, a court's warning to a party that his
18 failure to obey the court's order will result in dismissal satisfies the "consideration of
19 alternatives" requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*,
20 779 F.2d at 1424. Judge Youchah's order expressly stated: "IT IS FURTHER ORDERED that if
21 Plaintiff does not timely comply with this order, dismissal of this action may result." ECF No. 3
22 at 2. Thus, Brown had adequate warning that dismissal would result from his noncompliance
23 with Judge Youchah's order.

1 IT IS ORDERED that this action is dismissed without prejudice based on plaintiff
2 Deanthony Brown's failure to file an application to proceed *in forma pauperis* or pay the full
3 filing fee in compliance with this court's order dated August 19, 2019.

4 IT IS FURTHER ORDERED that the Clerk of Court shall enter judgment accordingly.

5 Dated: September 30, 2019.

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9 ANDREW P. GORDON
10 UNITED STATES DISTRICT JUDGE
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